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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,370	07/14/2004	Thierry Coleou	Cabinet -02	7593
64304 7590 02/04/2010 STRASBURGER & PRICE, LLP ATTN: IP SECTION 1401 MCKINNEY SUITE 2200 HOUSTON, TX 77010				
EXAMINER				
LE, TOAN M				
ART UNIT		PAPER NUMBER		
2863				
MAIL DATE		DELIVERY MODE		
02/04/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/501,370

Applicant(s)

COLEOU, THIERRY

Examiner

TOAN M. LE

Art Unit

2863

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-9,11,12,14 and 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-9,11,12,14 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Oath/Declaration

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because: it is not in English.

Specification

The disclosure is objected to because of the following informalities:

Specification, page 4, line 6, “subtracting” should read -subtracting-.

Appropriate correction is required.

Claim Objections

Claims 8 and 9 are objected to under 37 CFR 1.75 as being a substantial duplicate of claims 3 and 4, respectively. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claims 8 & 9 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

For instance, in claim 8, the step of determining the orthogonal residues for the various data series by subtracting the estimated common component from each of the data series has

been recited in claim 3. And in claim 9, the step of implementing kriging analysis to resolve said orthogonal residues has been recited in claim 4.

Appropriate correction is required.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1, 3-9, 11-12, and 14-15 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

A method claim that would not qualify as a statutory process would be a claim that recited purely mental steps. Thus, to qualify as a § 101 statutory process, the claim should positively recite the other statutory class to which it is tied, for example by identifying the apparatus that accomplishes the method steps, or positively recite the subject matter that is being transformed, for example by identifying the material that is being changed into a different state. A mere field-of-use limitation is generally insufficient to render an otherwise ineligible method claim patent-eligible. Furthermore, insignificant extra-solution activity will not transform an unpatentable principle into a patentable process such as data gathering, filtering, determining, solving, resolving, or deducing.

For instance, independent claims 1, 5, and 7 cite steps of filtering two seismic data series, determining a cross variogram, solving a co-kriging equation, resolving each of the seismic data series into the sum of their component and orthogonal residues, and deducing an estimate of the component that is common to the data series, and independent claim 6 cites identifying a model of a component of three dimensional variability of its variogram, subtracting the model from the

experimental variogram, solving a kriging equation corresponding to the different variogram, and deducing an estimate of the corresponding variability component. However, there is no tie to any machine being used to perform these steps so that it can be done using pencil and papers, e.g. it does not require any machine/apparatus that accomplishes these steps.

Furthermore, the method claims do not transform the underlying subject matter. For instance, for data, mathematical manipulation per se has not been deemed a transformation; but transformation of electronic data has been found when the nature of the data has been changed such that it has a different function or is suitable for a different use.

Allowable Subject Matter

Claims 1, 3-9, 11-12, and 14-15 are rejected under 35 U.S.C. 101, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and overcome the 101 rejection.

Response to Arguments

Applicant's arguments with respect to claims 1, 3-9, 11-12, and 14-15 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TOAN M. LE whose telephone number is (571)272-2276. The examiner can normally be reached on Monday through Friday from 9:00 A.M. to 5:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Dunn can be reached on (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Toan Le

/Michael P. Nghiem/
Primary Examiner, GAU 2863

/TL/

January 29, 2010